Government of Saskatchewan

# Annual Report 2003 - 2004

## Saskatchewan Justice

*The Freedom of Information and Protection of Privacy Act*

104-06791/

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## Letter of Transmittal

Her Honour
The Honourable Dr. Lynda Haverstock
Lieutenant Governor of the Province of Saskatchewan

Dear Madam:

In accordance with Section 63(1) of *The Freedom of Information* and *Protection of Privacy Act*, I have the pleasure to transmit to your Honour the 2003-2004 annual report of the administration of this Act and the regulations within each government institution during the period April 1, 2003 to March 31, 2004.

Respectfully submitted,

Frank Quennell

Frank Quennell, Q.C.
Minister of Justice and
Attorney General

## MANDATE

The Minister of Justice is the Minister Responsible for the administration of *The Freedom of Information and Protection of Privacy Act*. While the nature of the Act requires that decisions with respect to access to records and the management of personal information be made within each government institution governed by the Act, the Minister of Justice retains overall responsibility for its administration.

The Minister is required by the Act to:

- Produce and update as required, a directory of all government institutions, including a general description of their records and a contact person to whom applications for access may be sent (Section 64(1)).
- Make a copy of the directory available to any government office, public library and municipal office (Section 64(2)).
- Prepare and submit an annual report to the Speaker of the Assembly on the administration of the Act and the regulations, within each government institution (Section 63).

## GOVERNING LEGISLATION

*The Freedom of Information and Protection of Privacy Act* was passed in June 1991 and proclaimed April 1, 1992.

The Act applies to all departments, secretariats and similar agencies of the executive government of Saskatchewan. The regulations extend that coverage to a broad range of Crown Corporations, Boards, Commissions and other bodies with government appointments.

The Act is really "two Acts in one".

First, the Act provides a right of access to records in the possession or control of provincial "government institutions".

Secondly, the Act establishes rules for how the government collects and deals with personal information.

The Act applies to records in all formats, eg: written, photographed, audiovisual, computer generated, etcetera.

## DEPARTMENT OF JUSTICE RESPONSIBILITIES

On an ongoing basis, the Department of Justice provides direction and support to government institutions and to the public as it relates to *The Freedom of Information and Protection of Privacy Act.* The Department:

- monitors the administrative procedures, and recommends and implements changes as necessary;
- coordinates the preparation of the Annual Report, including the collection of quarterly statistics; and
- provides training on an ongoing basis.

## INSTITUTIONS' RESPONSIBILITIES

The "Head" of a government institution is the person who has the authority to respond to applications for access. However, under Section 60 of the Act, the "Head" can delegate the powers to one or more officers (Access Officers) of the government institution.

Each government institution also has an Administrative Coordinator. The Coordinators are responsible for tracking the paper flow and dealing with the public on a one to one basis.

## FEES

The Act states that an applicant who is entitled to access a record, may do so upon payment of a fee. The fee structure is outlined in Section 6 of *The Freedom of Information and Protection of Privacy Regulations.*

Each institution applies this fee structure when determining the fees to be paid by an applicant on application for access.

If the fees are greater than $50.00, the institution is required to give the applicant a reasonable estimate of the cost. The institution can also require the applicant to pay a deposit of up to one-half the estimated cost prior to providing access.

In certain circumstances the Head of an institution may waive payment of the fees, or any portion thereof. Those circumstances are outlined in Section 9 of the Regulations.

## THE SASKATCHEWAN ACCESS DIRECTORY

Section 64 of *The Freedom of Information and Protection of Privacy Act* requires that a directory be produced and updated as reasonably required. The Directory is to contain a list of all government institutions, including a general description of the categories of records in the possession or under the control of each institution and the title and address of the appropriate officer for each institution to whom applications for access to records should be sent.

The Saskatchewan Access Directory was updated in March 2000 and was distributed to all government institutions.

This directory was developed to be as user friendly as possible. The introduction section of the Access Directory gives instructions on how to use the directory as well as a copy of the forms to be used.

It also provides a list of the address and telephone number of the Administrative Coordinator in each institution and a summary of the kinds of "common records" that are found in each government institution.

The next section is the largest and the most useful. It contains an entry for each institution covered under the Act and the Regulations.

The entries are arranged alphabetically by institution name. Each entry contains:

- the address of the head office;
- the institution's mandate;
- the institution's organization;
- the general classes or types of operational records;
- the types of personal information not included under Common Records/Common Personal Information; and
- the address and telephone number of the institution's Administrative Coordinator.

The remaining sections of the Access Directory provide an easy to use alphabetical subject index to assist in determining which institution might hold the type of record being requested and a copy of the Act.

This directory was distributed throughout the Province. All government institutions across the province as well as all the public libraries across the province have copies for public use.

## REPORTS

The Department of Justice collects and reports on statistics generated by use of the Act. These reports provide statistics both by institution and government-wide. The reports are divided into two categories: General and Personal.

Applications for general information refer to records in the possession or under the control of a government institution other than those described as personal information in Section 24 of the Act.

Applications for personal information refer to records in the possession or under the control of a government institution described in Section 24 of the Act.

The following tables reflect the results of those reports.

**Table A - Freedom of Information Statistical Summary Report**

- Provides information on the number of applications received government-wide, their status, the processing time in completing the applications, the fees estimated to process the request, the fees collected once access was provided, and the number of reviews requested by the Information and Privacy Commissioner for the fiscal years 1999-00, 2000-01, 2001-02, 2002-03 and 2003-04.

**Table B - Exemptions Used to Deny Access**

- Provides statistics on exemptions applied to deny access for the fiscal years 1999-00, 2000-01, 2001-02, 2002-03 and 2003-04. These statistics are presented by mandatory exemptions, discretionary exemptions and other.

**Table C - Freedom of Information Statistics by Institution - Applications for General Information**

- Provides statistics by institution on the number of general information requests received by each institution, the action taken on those requests, and the fees collected. If an institution is not listed, it did not receive any general information requests during the 2003-04 fiscal year.

**Table D - Freedom of Information Statistics by Institution - Applications for Personal Information**

- Provides the same information as above regarding the number of personal information requests received. Again, if an institution is not listed, it did not receive any personal information requests during the 2003-04 fiscal year.

# TABLE A
# FREEDOM OF INFORMATION STATISTICAL SUMMARY REPORT
# 1999-2000 to 2003-2004

| | 1999-00 Fiscal Year | | 2000-01 Fiscal Year | | 2001-02 Fiscal Year | | 2002-03 Fiscal Year | | 2003-04 Fiscal Year | |
|---|---|---|---|---|---|---|---|---|---|---|
| | Personal | General | Personal | General | Personal | General | Personal | General | Personal | General |
| Applications Received | 83 | 332 | 125 | 273[1] | 141 | 271 | 145 | 340 | 159 | 372 |
| Plus: Applications Carried Forward From Last Year | 5 | 42 | 7 | 25 | 8 | 57 | 7 | 41 | 16 | 19 |
| Less: Applications Withdrawn | 4 | 11 | 3 | 10 | 5 | 18 | 2 | 25 | 1 | 17 |
| Applications Carried Forward to Next Year | 7 | 25 | 8 | 57[1] | 7 | 41 | 16 | 19 | 13 | 72 |
| TOTAL APPLICATIONS PROCESSED | 77 | 338 | 121 | 231 | 137 | 269 | 134 | 337 | 161 | 302 |
| APPLICATIONS STATUS | | | | | | | | | | |
| Access Granted | 26 | 198 | 40 | 119 | 37 | 148 | 24 | 194 | 48 | 188 |
| Access Denied | 28 | 27 | 34 | 28 | 56 | 41 | 40 | 38 | 37 | 25 |
| Partially Granted | 16 | 64 | 35 | 49 | 28 | 36 | 49 | 47 | 58 | 30 |
| Do Not Require FOI for Access | 1 | 9 | 6 | 9 | 2 | 3 | 9 | 11 | 7 | 8 |
| Records Do Not Exist | 6 | 34 | 5 | 25 | 11 | 40 | 7 | 47 | 9 | 50 |
| Records Could Not Be Found | 0 | 6 | 1 | 1 | 3 | 1 | 5 | 0 | 2 | 1 |
| TOTALS | 77 | 338 | 121 | 231 | 137 | 269 | 134 | 337 | 161 | 302 |
| PROCESSING TIME OF APPLICATIONS COMPLETED | | | | | | | | | | |
| Processed Within 30 Days | 67 | 278 | 100 | 194 | 101 | 239 | 108 | 291 | 114 | 272 |
| Processed Within 31-60 Days | 10 | 56 | 13 | 34 | 27 | 25 | 22 | 41 | 30 | 29 |
| Processed In More than 60 Days | 0 | 4 | 8 | 3 | 9 | 5 | 4 | 5 | 17 | 1 |
| | | | | | | | | | | |
| Total Fees Estimated[2] | $770 | $92,959 | $1,330 | $329,379 | $253 | $18,934 | $498 | $20,882 | $45 | $28,861 |
| Total Fees Collected[2] | $0 | $2,911 | $1,090 | $1,903 | $203 | $1,670 | $249 | $6,293 | $45 | $93 |
| Requests for Review by Information & Privacy Commissioner | 5 | 7 | 5 | 10 | 5 | 12 | 15 | 19 | 4 | 10 |

[1] The 2000-2001 statistics for applications received and applications carried forward have been adjusted by one (as compared to the statistics presented in the 2000-2001 Annual Report). This adjustment reflects an amendment requested by an institution in fall 2001.

[2] The total fees estimated can vary significantly from the total fees collected. The total fees estimated is the cost assessed to process applications as determined by the fee structure outlined in the Regulations. The total fees collected refers to fees actually collected from the applicants. The applicant has several options in regard to the fees. The applicant can: modify the application in order to reduce the costs, request a waiver of the fees, or decide not to pay the fees and therefore not receive access to the records. The Regulations (Section 9) are very specific regarding the types of circumstances in which the "Head" can waive fees.

## TABLE B
## EXEMPTIONS USED TO DENY ACCESS
## 1999-2000 to 2003-2004

| MANDATORY EXEMPTIONS | Section | 1999-00 Fiscal Year | 2000-01 Fiscal Year | 2001-02 Fiscal Year | 2002-03 Fiscal Year | 2003-04 Fiscal Year |
|---|---|---|---|---|---|---|
| Records From Other Governments | 13(1) | 1 | 3 | 9 | 12 | 2 |
| Cabinet Documents | 16 | 3 | 5 | 47 | 14 | 6 |
| Third Party Information | 19 | 47 | 34 | 92 | 49 | 41 |
| Confidentiality Provisions in Other Enactments | 23 | 24 | 19 | 30 | 24 | 26 |
| Disclosure of Personal Information | 29 | 20 | 23 | 20 | 49 | 42 |
| Personal Information of a Deceased Individual | 30 | 0 | 0 | 3 | 1 | 2 |
| TOTALS | | 95 | 84 | 201 | 149 | 119 |
| **DISCRETIONARY EXEMPTIONS** | **Section** | | | | | |
| Records from Local Authorities | 13(2) | 4 | 3 | 3 | 1 | 1 |
| Information Injurious to Intergovernmental Relations | 14 | 1 | 0 | 2 | 3 | 0 |
| Law Enforcement and Investigations | 15 | 41 | 31 | 110 | 44 | 31 |
| Advice from Officials | 17 | 73 | 50 | 156 | 74 | 44 |
| Economic and Other Interests | 18 | 10 | 34 | 59 | 27 | 29 |
| Testing Procedures, Tests and Audits | 20 | 0 | 6 | 2 | 0 | 0 |
| Danger to Health or Safety | 21 | 0 | 0 | 1 | 8 | 3 |
| Solicitor-Client Privilege | 22 | 12 | 10 | 22 | 10 | 17 |
| Individual's Access to Personal Information | 31(2) | 1 | 2 | 0 | 0 | 0 |
| TOTALS | | 142 | 136 | 355 | 167 | 125 |
| **OTHER EXEMPTIONS** | **Section** | | | | | |
| Not a Government Institution | 2(1)(d) | 0 | 0 | 0 | 0 | 0 |
| Published Material or Public Record | 3(1)(a)(b) | 1 | 13 | 0 | 12 | 3 |
| Existing Rights Preserved | 4 | 0 | 0 | 0 | 0 | 0 |
| Right of Access Defined | 5 | 0 | 0 | 0 | 0 | 0 |
| Unable to Identify a Record | 6(3) | 0 | 1 | 0 | 0 | 0 |
| Published Material or Material that is to be Published | 7(2)(b)(c) | 0 | 1 | 9 | 0 | 2 |
| Records do not Exist | 7(2)(e) | 42 | 30 | 44 | 47 | 57 |
| Refuse to Confirm/Deny Records Exist | 7(4) | 1 | 2 | 1 | 2 | 3 |
| TOTALS | | 44 | 47 | 54 | 61 | 65 |

Note: The numbers in these columns indicate every time an exemption was used to deny access fully or in part. The exemption may be used several times in relation to an individual application and more than one exemption may be used for each application.

## TABLE C - 2003-2004 FISCAL YEAR
## FREEDOM OF INFORMATION STATISTICS BY INSTITUTION - GENERAL INFORMATION

| Institution | Applicaton Carried Forward from Last Year | Total # Requests Received This Year * | Granted | Denied | Partially Granted | Act Not Required | Records Do Not Exist | Records Not Found | Application Withdrawn | Application Carried Forward to Next Year | Fees Collected |
|---|---|---|---|---|---|---|---|---|---|---|---|
| Agriculture, Food and Rural Revitalization | 0 | 15 | 9 | 1 | 1 | 0 | 4 | 0 | 0 | 0 | $0.00 |
| Community Resources and Employment | 0 | 10 | 1 | 0 | 3 | 0 | 3 | 0 | 0 | 3 | $39.75 |
| Corrections and Public Safety | 5 | 17 | 2 | 1 | 0 | 0 | 2 | 0 | 5 | 7 | $0.00 |
| Crown Investments Corporation | 2 | 15 | 10 | 2 | 1 | 1 | 0 | 0 | 0 | 1 | $0.00 |
| Culture, Youth and Recreation | 1 | 16 | 9 | 1 | 0 | 0 | 1 | 1 | 1 | 3 | $0.00 |
| Environment | 0 | 28 | 20 | 1 | 2 | 0 | 1 | 0 | 1 | 3 | $0.00 |
| Executive Council | 0 | 10 | 1 | 0 | 1 | 1 | 4 | 0 | 0 | 3 | $0.00 |
| Finance | 0 | 15 | 10 | 1 | 0 | 1 | 3 | 0 | 0 | 0 | $53.25 |
| Government Relations and Aboriginal Affairs | 0 | 12 | 7 | 0 | 0 | 0 | 0 | 0 | 0 | 5 | $0.00 |
| Health | 0 | 20 | 16 | 1 | 0 | 0 | 3 | 0 | 0 | 0 | $0.00 |
| Highways and Transportation | 0 | 11 | 10 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | $0.00 |
| Industry and Resources | 0 | 21 | 4 | 0 | 5 | 0 | 6 | 0 | 1 | 5 | $0.00 |
| Information Services Corporation | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | $0.00 |
| Information Technology Office | 0 | 4 | 1 | 0 | 0 | 0 | 1 | 0 | 0 | 2 | $0.00 |
| Justice | 1 | 25 | 5 | 3 | 3 | 2 | 3 | 0 | 1 | 8 | $0.00 |
| Labour | 0 | 29 | 11 | 2 | 3 | 0 | 13 | 0 | 0 | 0 | $0.00 |
| Learning | 1 | 12 | 8 | 0 | 0 | 0 | 0 | 0 | 0 | 4 | $0.00 |
| Liquor and Gaming Authority | 0 | 13 | 6 | 1 | 0 | 0 | 2 | 0 | 0 | 4 | $0.00 |

## TABLE C - 2003-2004 FISCAL YEAR (CONTINUED)
## FREEDOM OF INFORMATION STATISTICS BY INSTITUTION - GENERAL INFORMATION

| Institution | Applicaton Carried Forward from Last Year | Total # Requests Received This Year * | Granted | Denied | Partially Granted | Act Not Required | Records Do Not Exist | Records Not Found | Application Withdrawn | Application Carried Forward to Next Year | Fees Collected |
|---|---|---|---|---|---|---|---|---|---|---|---|
| Meewasin Valley Authority | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | $0.00 |
| Northern Affairs | 0 | 7 | 4 | 0 | 0 | 0 | 2 | 0 | 0 | 1 | $0.00 |
| Public Service Commission | 0 | 6 | 5 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | $0.00 |
| Sask. Communications Network | 0 | 2 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | $0.00 |
| Sask. Financial Services Commission | 0 | 2 | 0 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | $0.00 |
| Sask. Gaming Commission | 0 | 2 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | $0.00 |
| Sask. Government Insurance | 1 | 9 | 3 | 1 | 1 | 0 | 0 | 0 | 0 | 4 | $0.00 |
| Sask. Police Commission | 0 | 2 | 0 | 0 | 0 | 2 | 0 | 0 | 0 | 0 | $0.00 |
| Sask. Power Corporation | 7 | 25 | 10 | 2 | 0 | 0 | 2 | 0 | 7 | 4 | $0.00 |
| Sask. Property Management Corporation | 0 | 19 | 8 | 5 | 3 | 0 | 0 | 0 | 0 | 3 | $0.00 |
| Sask. Research Council | 0 | 2 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | $0.00 |
| Sask. Telecommunications | 0 | 16 | 9 | 0 | 2 | 0 | 0 | 0 | 1 | 4 | $0.00 |
| Sask. Transportation Company | 0 | 4 | 2 | 0 | 1 | 0 | 0 | 0 | 0 | 1 | $0.00 |
| Sask. Water Corporation | 1 | 6 | 4 | 1 | 0 | 0 | 0 | 0 | 0 | 1 | $0.00 |
| Sask. Watershed Authority | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | $0.00 |
| Saskenergy Incorporated | 0 | 9 | 5 | 0 | 2 | 0 | 0 | 0 | 0 | 2 | $0.00 |
| Workers' Compensation Board | 0 | 4 | 2 | 0 | 2 | 0 | 0 | 0 | 0 | 0 | $0.00 |
| **Totals** | **19** | **391** | **188** | **25** | **30** | **8** | **50** | **1** | **17** | **72** | **$93.00** |

*Includes requests carried forward from previous fiscal year.

## TABLE D - 2003-2004 FISCAL YEAR
## FREEDOM OF INFORMATION STATISTICS BY INSTITUTION - PERSONAL INFORMATION

| Institution | Applicaton Carried Forward from Last Year | Total # Requests Received This Year * | Granted | Denied | Partially Granted | Act Not Required | Records Do Not Exist | Records Not Found | Application Withdrawn | Application Carried Forward to Next Year | Fees Collected |
|---|---|---|---|---|---|---|---|---|---|---|---|
| Agriculture, Food and Rural Revitalization | 0 | 2 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | $0.00 |
| Community Resources and Employment | 3 | 47 | 10 | 20 | 11 | 0 | 1 | 2 | 0 | 3 | $0.00 |
| Corrections and Public Safety | 1 | 8 | 1 | 1 | 4 | 2 | 0 | 0 | 0 | 0 | $0.00 |
| Crown Investments Corporation | 2 | 4 | 3 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | $0.00 |
| Environment | 0 | 2 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | $0.00 |
| Finance | 0 | 9 | 8 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | $0.00 |
| Health | 0 | 8 | 5 | 0 | 0 | 0 | 3 | 0 | 0 | 0 | $0.00 |
| Justice | 1 | 9 | 1 | 2 | 1 | 0 | 4 | 0 | 0 | 1 | $0.00 |
| Labour | 0 | 1 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | $0.00 |
| Learning | 2 | 7 | 5 | 0 | 0 | 0 | 0 | 0 | 0 | 2 | $0.00 |
| Sask. Communications Network | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | $0.00 |
| Sask. Crop Insurance Corporation | 0 | 3 | 1 | 0 | 2 | 0 | 0 | 0 | 0 | 0 | $0.00 |
| Sask. Financial Services Commission | 0 | 4 | 0 | 1 | 3 | 0 | 0 | 0 | 0 | 0 | $0.00 |
| Sask. Gaming Commission | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | $45.00 |
| Sask. Government Insurance | 5 | 55 | 10 | 7 | 32 | 0 | 0 | 0 | 0 | 6 | $0.00 |
| Sask. Human Rights Commission | 1 | 3 | 0 | 1 | 2 | 0 | 0 | 0 | 0 | 0 | $0.00 |
| Sask. Legal Aid Commission | 0 | 4 | 0 | 0 | 0 | 4 | 0 | 0 | 0 | 0 | $0.00 |
| Sask. Power Corporation | 1 | 3 | 0 | 0 | 1 | 0 | 0 | 0 | 1 | 1 | $0.00 |
| Workers' Compensation Board | 0 | 4 | 0 | 4 | 0 | 1 | 0 | 0 | 0 | 0 | $0.00 |
| **Totals** | **16** | **175** | **48** | **37** | **58** | **7** | **9** | **2** | **1** | **13** | **$45.00** |

*Includes requests carried forward from previous fiscal year.

## APPEALS TO THE INFORMATION AND PRIVACY COMMISSIONER

Section 49 of *The Freedom of Information and Protection of Privacy Act* provides a right of review to applicants by the Information and Privacy Commissioner in the event access to information is refused on the following basis:

- where an applicant is not satisfied with the decision of a head ...;
- where a head fails to respond to an application for access to a record within the required time; or
- where an applicant requests a correction of personal information ... and the correction is not made.

During the 2003-04 fiscal year, the Information and Privacy Commissioner advised government institutions of his review of fourteen of the decisions made by access officers refusing access to records.

In some instances the Commissioner upheld the decisions to deny access and in others he recommended that access be granted.

Where the Commissioner recommends that access be granted, the government institution involved must reconsider the question of access and determine whether to accept the recommendation. This is not an easy decision, since the original decision to deny access was carefully made.

Further details on these reviews can be obtained from the Information and Privacy Commissioner's Annual Report.